

Court of Appeals, State of Michigan

ORDER

People of MI v Laura Kate Astrakhan

Docket No. 299249

LC No. 08-004808-FH

Michael J. Talbot
Presiding Judge

Brian K. Zahra

Kirsten Frank Kelly
Judges

In lieu of granting leave to appeal, the Court, pursuant to MCR 7.205(D)(2), VACATES defendant-appellant's sentence and REMANDS this matter to the trial court for another probation revocation hearing. The record reveals that the trial court failed to comply with the requirements for a plea-taking under MCR 6.445(F); erred in accepting the plea from defendant-appellant's counsel rather than directly from defendant-appellant; and erred in failing to establish as a factual basis for the plea that defendant-appellant had the ability to pay the fees and costs imposed as a condition of her probation. See *People v Allen*, 71 Mich App 465; 248 NW2d 588 (1976), MCL 771.3(8), and *Bearden v Georgia*, 461 US 660; 103 S Ct 2064; 76 L Ed 2d 221 (1983). In addition, the trial court erred in imposing a minimum sentence that exceeds the statutory guidelines without articulating substantial and compelling reasons for doing so. See *People v Hendrick*, 472 Mich 555; 697 NW2d 511 (2005), MCL 769.34(3), and *People v Babcock*, 469 Mich 247; 666 NW2d 231 (2003).

The Court does not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

SEP 07 2010

Date

Sandra Schultz Mengel
Chief Clerk